

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

P. BENJAMIN AS GUARDIAN OF
EST. OF R. WILLIAMS

Plaintiff)

Vs.)

AIG INSURANCE COMPANY OF
PUERTO RICO, ET AL

Defendant)

CASE NO. ST-04-CV-0000082

ACTION FOR: DAMAGES - CIVIL

**NOTICE OF ENTRY OF
MEMORANDUM OPINION
AND ORDER**

TO: KENTH ROGERS, ESQUIRE
BENNETT CHAN, ESQUIRE
JUDGES & MAGISTRATES, SUPERIOR COURT
LIBRARIAN
IT DIVISION
ORDER BOOK

Please take notice that on March 16, 2010 a(n) MEMORANDUM
OPINION AND ORDER dated March 16, 2010 was entered by the Clerk in the
above-entitled matter.

Dated: March 16, 2010

Venetia H. Velazquez, Esq.
Clerk of the Court



DIANE MATTHEW-TURNBULL
COURT CLERK II

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

PATRICIA BENJAMIN as Guardian of the)	
ESTATE OF RONALD WILLIAMS, a Minor,)	CIVIL NO. ST-04-CV-82
)	
Plaintiff,)	ACTION FOR DAMAGES
)	
v.)	JURY TRIAL DEMANDED
)	
ESSO VIRGIN ISLANDS, INC., as Successor to)	
ESSO STANDARD OIL S.A., LTD.,)	
)	
Defendant.)	
)	

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court upon the Motion to Dismiss of Defendant Esso Virgin Islands, Inc. Plaintiff Patricia Benjamin (“Benjamin”) is represented by Kenth Rogers, Esq., and Defendant Esso Virgin Islands, Inc., is represented by Dudley, Clark and Chan, LLP. After reviewing the arguments of Plaintiff and Defendant, the Court believes that the Complaint fails to state a claim upon which relief can be granted because the causes of action have been preempted by the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001—1461 (2006). For that reason, the Court will dismiss the Complaint.

STATEMENT OF FACTS

The underlying facts in this case are gleaned from the Complaint.¹ Fitzroy Williams, who is now deceased, was a full-time employee of Esso Virgin Islands, Inc. (“Esso Virgin Islands” or “Esso”) and a covered employee under a Group Life Benefits insurance policy (the

¹ The Court allowed the Complaint to be amended by an Order dated May 6, 2004. On April 21, 2008, Plaintiff filed another Amended Complaint with a Motion to File Amended Complaint, but the Court never granted leave to file the proposed second amended complaint. On June 22, 2009, Defendant AIG, which has since been dismissed from this action, filed its Motion to Strike First Amended Complaint (referring to the 2008 Amended Complaint) which was joined in by Defendant Esso. Since leave to amend was not granted for the Amended Complaint filed on April 21, 2008, the present motion concerns the Amended Complaint that was deemed filed as of May 6, 2004.

“life insurance policy” or the “policy”) allegedly entered into between AIG Insurance Co. of Puerto Rico (“AIG”) and Esso Virgin Islands. The Complaint alleged that on or about March 1, 1976, AIG and Esso Standard Oil Company (Puerto Rico) entered into a “Group Life Benefits” insurance policy that is renewable annually. The life insurance policy was attached to and incorporated in the Complaint as Exhibit A. According to the life insurance policy, Esso Standard Oil Company (Puerto Rico), as the policy holder, specifically agreed with AIG that all full-time employees of Esso Virgin Islands would be covered under the policy.

On or about May 15, 1988, Fitzroy Williams became an associated policyholder under the life insurance policy by becoming a full-time employee of Esso Virgin Islands, and he identified his infant son, Ronald Williams, as his sole dependent and beneficiary. Accordingly, Fitzroy Williams became a participant under the life insurance policy, and continued to contribute to the life insurance policy by payroll deductions until the date of his death on September 19, 1994.

After Fitzroy Williams’s death, family members of the deceased tried to get the insurance money paid to Ronald Williams, as the beneficiary of Fitzroy Williams’s life insurance policy. Initially, Daniel Williams, the father of Fitzroy Williams, presented reports about his son’s death and demanded that Esso Virgin Islands pay the insurance proceeds or provide a copy of the life insurance policy. Esso Virgin Islands refused to make payment or to provide a copy of the life insurance policy.

After several other attempts regarding payment of the policy, the Plaintiff, Patricia Benjamin, on April 2, 2002, petitioned the Superior Court to be appointed as the guardian of the estate of the minor beneficiary and was later appointed by the Court as the guardian. On August 19, 2002, pursuant to Court Order, Esso Virgin Islands provided the Plaintiff with a copy of the

insurance policy. On July 18, 2003, AIG issued a check in the amount of Forty-Four Thousand Three Hundred Three Dollars and Ninety-Four Cents (\$44,303.94), and a check in the amount of Twenty-Nine Thousand Five Hundred Thirty-Five Dollars and Ninety-Six Cents (\$29,535.96), both made payable to the Estate of Ronald Williams, a minor.

As a result of these actions, Benjamin alleges in Count I that Esso breached the contractual duty of good faith and fair dealing by not paying One Hundred Thousand Dollars (\$100,000.00) in insurance benefits. In Count II, Benjamin alleges that Esso and Defendant AIG conspired to defraud Plaintiff of insurance benefits.

Plaintiff's Amended Complaint filed on May 6, 2004 also alleges that Esso Virgin Islands failed to pay insurance proceeds to the Plaintiff in the amount of One Hundred Thousand Dollars (\$100,000.00) and also refused to make a copy of the life insurance policy available to Benjamin. In Defendant's Motion to Dismiss, Esso Virgin Islands contends that the Complaint fails to state a claim upon which relief can be granted because the causes of action are preempted by the Employee Retirement Income Security Act of 1974 ("ERISA").

DISCUSSION

Standard of Review

Under Fed. R. Civ. P. 12(b)(6), the Court shall dismiss a complaint that "fails to state a claim upon which relief can be granted." Such a motion should be granted if the Plaintiff can prove no set of facts in support of his claim that would entitle him to relief. *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). When ruling on a motion to dismiss under Fed. R. Civ. P. 12(b)(6), the court must accept all factual pleadings as true. *Egnotovich v. Greenfield Township Sewer Authority*, Case No. 07-3162, 2008 WL 5238488, at *2 (3d Cir. Dec. 17, 2008). "In considering a motion to dismiss, the issue is not whether the plaintiffs ultimately will prevail but whether

they are entitled to offer evidence to support their claims.” *Id.* Therefore, courts “accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.” *Phillips v. County of Allegheny*, 515 F.3d 224, 233 (3d Cir. 2008). *See also Bell Atlantic Corp. v. Twombly*, 127 S.Ct. 1955, 1969 n.8 (2007).

In consideration of a motion to dismiss, the Court “may consider documents that are attached to or submitted with the complaint and any matters incorporated by reference or integral to the claim, [and] items subject to judicial notice.” *Buck v. Hampton TP School Dist.*, 452 F.3d 256, 260 (3d Cir. 2006); *Acosta v. Hovenssa, LLC*, No. 1:08-CV-0089, 2010 WL 695963 (D.V.I. Feb. 23, 2010). In this case, Plaintiff has referred extensively to the contents of the life insurance policy in the Complaint, and a copy of the life insurance policy was fully incorporated and made a part of the Complaint. Therefore, it is proper for the Court to consider the terms of the Life Insurance Policy in determining whether the Plaintiff has sufficiently stated a claim. *Acosta*, 2010 WL 695963, at *1, n.1 (where plaintiffs alleged that defendants violated the collective bargaining agreement in their complaint and referred to it extensively, and the collective bargaining agreement was integral to plaintiff’s claim, the court would consider the terms of the collective bargaining agreement in determining whether the plaintiff had sufficiently stated a claim).

Preemption by ERISA

Esso contends that the claims of Benjamin do not satisfy the pleading standards of Rule 12(b)(6), because the claims have been completely preempted by the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001—1461 (2006). “ERISA is a comprehensive statute designed to promote the interests of employees and their beneficiaries in

employee benefit plans.” *Shaw v. Delta Air Lines, Inc.* 463 U.S. 85, 90 (1983). An employee benefit plan is defined to include both pension plans and welfare plans. *Id.* ERISA sets uniform standards for reporting, disclosure, and fiduciary responsibility for both pension plans and welfare plans. *Id.* An employee welfare benefit plan includes any program that provides benefits for contingencies such as illness, accident, disability, death or unemployment. *Id.* at 91; 29 U.S.C. § 1002(1). ERISA preempts “any and all State laws insofar as they may now or hereafter relate to any employee benefit plan.” *Shaw*, 463 U.S. at 91; 29 U.S.C. § 1144(a).² State law includes all “laws, decisions, rules, regulations, or other State action having the effect of law of any State.” *Id.* The term, “state,” includes the Virgin Islands. 29 U.S.C. § 1002 (10).

Narrow enforcement provisions were provided for in ERISA, which would allow for a remedy for a beneficiary of an employee benefit plan. 29 U.S.C. § 1132 provides such a remedy for a participant or beneficiary to recover benefits, enforce his rights or clarify his rights to future benefits under the plan.³ Any claims that seek benefits that have been denied or delayed are completely preempted by ERISA. *Metro Life Ins. Co. v. Taylor*, 481 U.S. 58, 62-63 (1987). *See also Pilot Life Ins. Co. v. Dedeau*, 481 U.S. 41, 57 (1987) (considering the clear expression of congressional intent that ERISA’s civil enforcement scheme be exclusive, a state law suit asserting improper processing of a claim for insurance benefits under an ERISA regulated plan, is preempted by the terms of 29 U.S.C. § 1144(a) (Section 514(a) of ERISA)).

The insurance plan in this case comes within the four corners of an ERISA welfare benefit plan because it is a program that provides benefits for the contingency of the death of an

² 29 U.S.C. § 1144 (a) provides that the provisions of ERISA shall “supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan. . . .”

³ 29 U.S.C. § 1132 provides that a civil action may be brought:

(1) by a participant or beneficiary –

(B) to recover benefits due to him under the terms of his plan, to enforce his rights under the terms of his plan, or to clarify his rights to future benefits under the terms of the plan.

employee.⁴ Therefore, by the terms of ERISA, any state or territorial causes of action are preempted relating to the life insurance policy in question. Since the instant complaint only alleges state or territorial causes of action relating to an employee benefit plan, and since the claims seek to recover benefits under the plan, these claims must be dismissed. Therefore, the Court will grant Esso's Motion to Dismiss, and will dismiss Plaintiff's Amended Complaint.

Accordingly, it is hereby

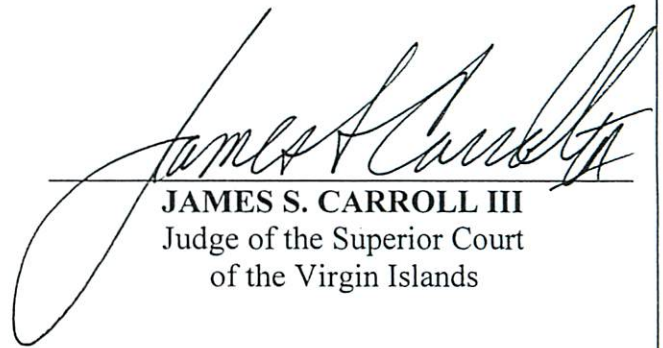
ORDERED that Defendant's Motion to Dismiss is **GRANTED**; and it is further

ORDERED that the Complaint of the Plaintiff is **DISMISSED**; and it is further

ORDERED that copies of this Memorandum Opinion and Order shall be directed to

counsel of record.

DATED: March 16, 2010.


JAMES S. CARROLL III
Judge of the Superior Court
of the Virgin Islands

ATTEST:

VENETIA H. VELAZQUEZ, ESQ.

Clerk of the Court

BY: 

ROSALIE J. GRIFFITH

Court Clerk Supervisor 3/16/10

CERTIFIED A TRUE COPY

Date: 3/16/10

Venetia H. Velazquez, Esq.
Clerk of the Court

By: 

Court Clerk

⁴ The District Court of the Virgin Islands, considering the same complaint and the same life insurance policy, in remanding the instant case to this Court for failure to timely remove the action in accordance with the removal statute, agreed with this Court in concluding that "Benjamin's claims are precisely the type that are covered by ERISA's civil enforcement provision[, and a]ccordingly, those claims are completely preempted by ERISA." *Benjamin v. AIG Ins of Puerto Rico*, Civil No. 2008-74, 2009 WL 903816, at * 3 (D.V.I. Mar. 30, 2009).